

REMARKS

Claims 1-18 remain herein. Claims 13 and 14 also remain herein but are presently withdrawn from consideration.

1. Claims 1-12 and 15-18 were rejected under 35 U.S.C. § 103(a) over Suzuki et al. EP 1 591 422.

The Suzuki EP '422 reference does not qualify as de jure prior art against the present application. Suzuki EP '422 was published on November 2, 2005, after the January 20, 2005 effective U.S. filing date of the present application.

Suzuki EP '422 is related to International Patent Application Publication WO 2004/067453 which was published on December 8, 2004. However, WO '453 also does not qualify as prior art because it describes applicants' own work.

“[O]ne's own work is not prior art under [35 U.S.C.] § 102(a) even though it has been disclosed to the public in a manner or form which would otherwise fall under 102(a).” In re Katz, 215 USPQ 14, 17 (CCPA 1982); MPEP 2132.01.

The inventors named on the WO '453 reference are Motoshi Suzuki, Takahiro Kawabata, Hideo Miyamoto, Takahisa Muramoto, Masashi Machida, and Shingo Ogoshi. The WO '453 reference describes a portion of the present Applicants' own work and, therefore, is not citable against this application. The actual contributions of Motoshi Suzuki, Takahiro Kawabata, Hideo Miyamoto, Takahisa Muramoto, Masashi Machida, and Shingo Ogoshi are clarified in a Declaration Under 37 C.F.R. § 1.132 of Takahiro Kawabata and Hideo Miyamoto submitted herewith. Messrs. Kawabata and Miyamoto state that:

Unlike Takahisa Muramoto, Masashi Machida, and Shingo Ogoshi who are named as inventors both in Suzuki WO '453 and in the above-identified application, we were not involved with any discovery or development of the subject matter claimed in the above-identified application. All possibly relevant portions of Suzuki WO '453, originated with, or were obtained from, the inventors of the above-identified application.

The other inventor of WO '453 who is not named as an inventor in the above-identified application, is Motoshi Suzuki. Motoshi Suzuki was not able to join in the Declaration because he is deceased.

Thus, any disclosure in the WO '453 reference relevant to the claims of the present application is the work of the inventors of the above-identified present application. Thus, the WO '453 reference does not qualify as prior art against the present application.

Applicants respectfully request reconsideration and withdrawal of this ground of rejection.

2. Claim 7 was rejected under 35 U.S.C. § 103(a) over Suzuki EP '422 in view of Krulik et al. U.S. Patent 6,652,758.

As discussed above, Suzuki EP '422 does not qualify as prior art against the present application.

Applicants respectfully request reconsideration and withdrawal of this ground of rejection.

Accordingly, all claims 1-12 and 15-18 now fully in condition for allowance and a notice to that effect is respectfully requested. The PTO is hereby authorized to charge/credit any fee deficiencies or overpayments to Deposit Account No. 19-4293. If further amendments would place this application in even better condition for issue, the Examiner is invited to call applicants' undersigned attorney at the number listed below.

Respectfully submitted,

STEPTOE & JOHNSON LLP

Date: May 17, 2010

Houda MORAD
Roger W. Parkhurst
Reg. No. 25,177
Houda Morad
Reg. No. 56,742

STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Tel: 202-429-3000
Fax: 202-429-3902